



NEWS

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SUMMARY OF CASES ACCEPTED DURING THE WEEK OF JULY 28, 2003

[This news release is issued to inform the public and the press of cases that the Supreme Court has accepted and of their general subject matter. The description or descriptions set out below do not necessarily reflect the view of the court, or define the specific issues that will be addressed by the court.]

#03-99 Fitch v. Select Products Co., S116223. (E028592; 108 Cal.App.4th 80; San Bernardino County Superior Court; SCV18360.) Petition for review after the Court of Appeal reversed an order in a civil action. This case includes the following issue: When the Department of Health Services has provided Medi-Cal benefits to an injured individual and the individual thereafter dies, can the Department seek to recover the value of the benefits provided to the decedent from an award obtained by the decedent's survivors in a wrongful death action, even though the wrongful death award does not include any damages related to the decedent's medical expenses? (See Welf. & Inst. Code, § 14124.72, subdivision (c).)

#03-100 Wiener v. Southcoast Childcare Centers, Inc., S116358. (G028814; 107 Cal.App.4th 1429; San Diego County Superior Court; 00CC01386, 00CC02595, 00CC03365.) Petition for review after the Court of Appeal reversed the summary judgment in a civil action. This case includes the following issue: Under what circumstances may the operators of a preschool be held liable for injuries incurred by the preschool's students when a third-party assailant drove his car through a four-foot high chain link fence and onto the preschool's playground?

#03-101 People v. Gilmore, S116235. (D039279; unpublished opinion; San

(over)

Diego County Superior Court; SCN121340.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses. The court ordered briefing deferred pending decision in People v. Celis, S107885 (#02-145), which includes the following issue: Can police make a protective sweep of a residence incident to the detention of a resident outside the residence?

#03-102 People v. Lodhia, S116713. (B155137; unpublished opinion; Los Angeles County Superior Court; GA044913.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses. The court ordered briefing deferred pending decision in People v. Griffin, S109734 (#02-171), which presents the following issue: Does “force” for purposes of the offense of rape “by means of force” (Pen. Code, § 261, subd(a)(2)) have a specialized meaning supporting a sua sponte duty to instruct a jury with the definition of the term?

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